Circuit Court of the United States.
Massachusetts District ss.

Charles C. Little et al. In Equity.

v.

Benjamin B. Mussey.

Amended Bill.

And now the Complainants, Charles C. Little and James Brown, amending their said Bill, do further show, that the said several books, the copyright whereof, in and by the said Bill, is charged to have been infringed by the said Defendant are Reports of cases adjudicated in the Supreme Judicial Court of the Commonwealth of Massachusetts, as reported by the said Octavius Pickering and Theron Metcalf, respectively, who have successively held the office of Reporter of the Decisions of the said Court, under a law of the said Commonwealth of Massachusetts, providing for the publication of the said decisions; That the said Octavius Pickering was duly appointed to the said office, on the twenty ninth day of August, A.D. 1822, under a law of the said State, passed on the Eighth day of March, A.D. 1804, entitled "An act providing for the appointment of a Reporter of Decisions in the Supreme Judicial Court", and continued to hold the said office until the twenty-seventh day of August, A.D. 1839; and during the latter part of the said period, the said Pickering held the said office, for a time, under a law of the said Commonwealth, passed on the second day of February, A.D. 1827, entitled "An act relating to the duties of the Reporter of Decisions in the Supreme Judicial Court", as well as under the former Act, and also, afterwards, under and by virtue of the provisions of the thirty sixth, thirty seventh, thirty eighth, thirty ninth,

fortieth, fortyfirst and forty second sections of the eighty eighth chapter of the Revised Statutes of said Commonwealth, which took effect on the thirtieth day of April, A.D. 1836, and by which the former Acts relating to the said office were repealed.

And the Complainants further show, that the said Theron Metcalf was duly appointed to the said office, on the thirteenth day of December, A.D. 1839, and has ever since held the same, under and by virtue of the aforesaid provisions of the Revised Statutes of the said Commonwealth; and the Complainants crave leave to refer to all the laws of the said Commonwealth hereinbefore recited.

And the Complainants further show, that each of the said books in the said original Bill mentioned as having been entered for copyright by the said Octavius Pickering, was prepared and published by him pursuant to his duty as such Reporter, and with all the rights in the matter thereof created by the said provisions of the Revised Statutes of the Commonwealth of Massachusetts herein before mentioned: and also that the said Book in the said original Bill mentioned as having been entered for copyright by the Complainants, being the fifth volume of Metcalf's Reports, was prepared and published by the said Theron Metcalf pursuant to his duty as such Reporter, and with all the rights in the matter thereof created by the said provisions of the Revised Statutes of the Commonwealth of Massachusetts hereinbefore mentioned

And the Complainants further show, that the passages charged in the said Bill to have been published and sold in the said Book complained of, against the

right of the Complainants, were respectively first published in the several books of the Complainants in the said Bill mentioned, and that the same were adopted, copied and taken from the said books of the Complainants and from no other source, by the person or persons who compiled the book in the said Bill complained of.

And the Complainants further show, that they are informed and believe, and they do charge the fact to be, that the matter complained to have been so adopted, copied and taken from the eighth volume of Pickerings Reports, being the opinion of the said Supreme Judicial Court, in the case of the New England Marine Insurance Company against James De Wolf, Junior, was originally composed and written in Manuscript, in the year 1829, by the Honorable Isaac Parker, then Chief Justice of the said Court, and was by him afterwards given in manuscript to the said Octavius Pickering, for publication in the said Pickering's Reports, and that no other copy or copies of the same was or were deposited by the said Parker in any public archives of the Commonwealth of Massachusetts, or in any other public place: And also that the matter complained to have been so adopted copied and taken from the nineteenth volume of Pickering's Reports, being the opinion of the said Supreme Judicial Court in the case of Culver against Ashley, was originally composed and written in Manuscript, in the year 1837, by the Honorable Marcus Morton, then one of the Justices of the said Court, and was by him afterwards given in Manuscript to the said Octavius Pickering, for publication in the said Pickering's Reports, and that no other copy or copies thereof was or were deposited by the said Morton in any public archives of the said Commonwealth of Massachusetts,

or in any other public place :- And also, that the matter complained to have been so adopted, copied and taken from the fifth volume of Metcalf's Reports, being the opinion of the said Supreme Judicial Court, in the case of Dyer against Clark, was originally composed and written in manuscript, in the year 1842, by the Honorable Lemuel Shaw, then and still Chief Justice of the said Court, and was by him afterwards given in manuscript to the said Theron Metcalf, for publication in the said Metcalf's Reports, and that no other copy or copies thereof was or were deposited by the said Shaw in any public archives of the Commonwealth of Massachusetts, or in any other public place :- And also, that the matter complained of to have been so adopted, copied and taken from another part of the said fifth volume of Metcalf's Reports, being an opinion given by the Justices of the said Court to the House of Representatives of the said Commonwealth of Massachusetts, was originally composed and written in manuscript, in the year 1843, by the said Lemuel Shaw, then Chief Justice as aforesaid, and was by him afterwards given in manuscript, ~~in the year~~ _____, to the said Theron Metcalf, for publication in his the said Metcalf's Reports.

And the Complainants further show, that, by reason of the delivery of the said Manuscripts so containing the said matter, as aforesaid, as well as by virtue of the provisions of the said Revised Statutes, the right of literary property in the said matter and every part thereof, and the right to secure and hold the copyright thereof, according to the laws of the United States, were well vested in the said Octavius Pickering and Theron Metcalf, respectively, and their assigns.

Charles C. Little

James Brown

United States of America
District of Mass. ss.
Febr. 15. 1848. Then personally
appeared the above named Charles
C. Little & James Brown, and
made oath, that the facts stated
in the foregoing amended Bill, as
of their own knowledge, are true,
and that the facts therein stated
upon information & belief they
believe to be true. Before me,

Geo. S. Curtis
Commissioner
of the Circuit
Court of the U. States
Mass. District

Little & al In Equity
vs
Mulsey —
Amended Bill.

In Equity
Charles C Little et al
Vs
Benj F Mulsey.

Amended Bill

Feb 22. 1858 Filed in
the Clks office

Jno B Robb Clk

I acknowledge notice
of the within amend
-ment

W Battle
for Defts

UNITED STATES OF AMERICA.

Massachusetts District, ss.

To Benjamin B. Mussey of Boston in the District of Massachusetts Bookseller and Publisher

GREETING.

FOR CERTAIN CAUSES, offered before the Circuit Court of the United States of America, for the first Circuit, within and for the Massachusetts District, as a Court of Chancery, WE COMMAND AND STRICTLY ENJOIN YOU, laying all other matters aside, and notwithstanding any excuse, that you personally be and appear before our said Circuit Court, at the Rules, to be holden at the Office of the Clerk of our said Court, in Boston, in said District, on the first Monday, being the seventh day of February next, to answer concerning those things, which shall then and there be objected against you by Charles Little of Cambridge in the said District and James Brown of Watertown in the said District both Booksellers & Publishers trading in Boston in the said District as Copartners under the style and firm of Little & Brown

and to do further and receive that which our said Circuit Court shall consider in this behalf. And this you are in no wise to omit, under the penalty of ten thousand dollars And have you there this writ.

Witness, the Honorable Roger B Taney at Boston this twenty ninth day of December A. D. 1847, in the seventy second year of the Independence of the United States of America.

Saml B Robb Clerk.

MEMORANDUM. The defendant is to enter his appearance in the suit in the Clerk's Office on or before the day at which the writ is returnable, otherwise the bill may be taken pro confesso.

United States of America
Massts District. } ss. Boston Dec. 29. 64.

Hereby Certify
that I have notified the within named
Massey to appear as within Command-
ed by giving him in hand this
day a true and attested Copy.

Received
Fees 52
Copy 1.
Trav 65
$3.05

Isaac C. Bates
Marshal

FOR CERTAIN CAUSES

Boston Dec 29 64
United States
Massachusetts District
Subpoena for Defendant
Witness
Filed Dec 29 64
Wm. T. Clerk
Solicitor for
Pltff.

UNITED STATES OF AMERICA.
Massachusetts District, ss.

To the Honorable the Justices of the Circuit Court of the United States for the District of Massachusetts.

Charles C. Little of Cambridge in the said District, and James Brown of Watertown in the said District, both booksellers and publishers trading in Boston in the said District as copartners under the style and firm of Little & Brown, bring their Bill against Benjamin B. Mussey of Boston aforesaid, Bookseller and Publisher:—

And thereupon your Orators complain and show unto your Honors that in the year one thousand eight hundred and thirty, Octavius Pickering, then of Boston aforesaid, Counsellor at Law, composed and printed and published a certain Book, entitled "Reports of Cases argued and determined in the Supreme Judicial Court of Massachusetts. By Octavius Pickering, Counsellor at Law. Volume VIII": being the Eighth Volume of a certain Series of books commonly known and called as Pickering's Reports: the title of which said book was duly entered, for the securing of the copyright thereof,

by the said Octavius Pickering, according to the Act of Congress, on the twenty first day of June in the year one thousand eight hundred and thirty, in the Clerk's Office of the District Court of the United States for Massachusetts District, as by the record of such entry remaining in the said Clerk's office fully appears: — And your Orators aver that thereupon the said Octavius Pickering did all other acts and things required by law for the securing of his said copyright in the book aforesaid, and continued, by his agents duly authorized to publish and sell the same, exclusively of all other persons, under the protection of the copyright thus secured to him, until his assignment thereof hereinafter mentioned.

And your Orators further show, that in the year one thousand eight hundred and forty one, the said Octavius Pickering, then of Boston, Counsellor at Law, composed and printed and published a certain other book entitled "Reports of Cases argued and determined in the Supreme Judicial Court of Massachusetts. By Octavius Pickering, Counsellor at Law." Volume XIX: being the nineteenth volume of the same Series of Books commonly known and called as Pickering's Reports. the Title of which said book was duly

entered, for the securing of the copyright thereof, by the said Octavius Pickering, according to the Act of Congress, on the second day of August in the year one thousand eight hundred and forty one, in the Clerk's Office of the District Court of the United States for the District of Massachusetts, as by the record of such entry remaining in the said Clerk's Office fully appears: And your Orators aver that thereupon the said Octavius Pickering did all acts and things required by law for the securing of his said copyright in the book last mentioned, and continued, by his agents duly authorized, to publish and sell the same, exclusively of all other persons, under the protection of the copyright thus secured to him, until the assignment thereof hereinafter mentioned.

And your Orators further show, that afterwards, to wit, on the Sixth day of December in the year one thousand eight hundred and forty four, the said Octavius Pickering, by his deed duly acknowledged and recorded, sold, assigned and conveyed unto your Orators, all his right, title and interest in and to his said copyrights of both the books aforesaid, as by the Record of the said Deed remaining in the said Clerk's Office fully appears: And thereupon your Orators, as proprietors of

the said copyrights have continued to publish and sell the said books, exclusively of all other persons, until the committing of the grievances hereinafter complained of. — 6.

And your Orators further show, that in the year eighteen hundred & forty four, Theron Metcalf of Boston aforesaid, Counsellor at Law, composed a certain other book, entitled "Reports of Cases argued and determined in the Supreme Judicial Court of Massachusetts. By Theron Metcalf. Volume V."; and while the same still remained in manuscript, to wit, on the nineteenth day of January in the year last aforesaid, the said Theron Metcalf by his deed duly executed, sold assigned and transferred to your Orators the manuscript of the said Book, with a right to take out a copyright in their own names. And afterwards, to wit, on the eleventh day of March in the year last aforesaid, your Orators, having caused the said book to be printed and being about to publish the same duly entered the Title thereof, for the securing of the copyright thereof, in their own names as proprietors, according to the Act of Congress, in the Clerks office of the District Court of the United States for Massachusetts District, as

by the record of such entry remaining in the said Clerk's Office fully appears; And your Orators aver that thereupon they did all other acts and things required by law for the securing of their said copyright in the Book last aforesaid, and have continued to publish and sell the same, exclusively of all other persons, under the protection of the copyright thus secured to them, until the committing of the grievances hereinafter complained of.

And your Orators further show, that the exclusive right to print publish and sell the ~~said~~ several books aforesaid and the whole and every part of the contents of each of them, was and is vested in your Orators; that your Orators have expended large sums of money in preparing and printing editions of the said books, and have always had and still have a sufficient number of copies of the same on hand for sale to the public at a reasonable price, and have always received and still ought to receive the profits thereof:

Nevertheless, the said Benjamin B. Mussey, contriving and intending to injure your Orators, without the license or consent of your Orators, on the twenty third day of December in the year Eighteen hundred and forty seven, at his shop in

published and
the City of Boston, exposed to Sale and sold
and still continues to expose to sale
divers, to wit, fifty copies, of a Book, entitled
"Select Decisions of American Courts, in
Several Departments of Law, with especial
reference to Mercantile Law. With Notes,
by J. I. Clark Hare and H. B. Wallace.
Volume I." which said Book so exposed
to Sale and sold by the said Munsey, is
a violation and infringement of the
said Several copyrights of your Orators,
in that it contains, from the three hundred
and twenty ninth page thereof to the
three hundred and thirty sixth page
thereof, inclusive, matter adopted copied
and taken verbatim from the aforesaid
Book of your Orators called the fifth volume
of Metcalf's Reports, commencing with the words
"Shaw C.J. This is a suit in Equity", and
ending with the words "distributed ac-
cording to law"; and also in that it
contains, from the four hundred and
seventeenth page thereof to the four
hundred and nineteenth page thereof,
inclusive, other matter adopted, copied
and taken verbatim from the afore-
said book of your Orators, called the
nineteenth volume of Pickering's Reports,
commencing with the words "Morton J.
When this case was before the Court", to
~~the~~ and ending with the words "judgment

knowing that the same had been printed without the consent of your Orators

according to the Auditor's report"; and also in that it contains from the four hundred and twenty fourth page thereof to the four hundred and twenty fifth page thereof, inclusive, other matter adopted, copied, and taken verbatim from the aforesaid book of your Orators called the eighth volume of Fickering's Reports, commencing with the words "Parker, C. J. delivered the opinion of the Court", and ending with the words "judgment according to verdict"; - and also in that it contains from the five hundred and fiftieth page thereof to the five hundred and fifty third page thereof, inclusive, other matter adopted, copied and taken verbatim from the aforesaid book of your Orators called the fifth volume of Metcalf's Reports, commencing with the words "To the Honorable the House of Representatives", and ending with the words "Right to vote in any Town"; all which said matter, so adopted, copied and taken in the book sold and exposed to sale by the said Muzzey, was first published in the several books, the copyrights of which are now vested in your Orators as aforesaid; and the exclusive right to publish and sell the same and to take the profits thereof belongs to your Orators by virtue of such copyrights.

And your Orators further show, that they are informed and believe, that the said Benjamin B. Muzzey did not print the said book hereinbefore complained of, but that the same was printed and published by certain booksellers in the city of Philadelphia trading under the style and firm of T. & J. W. Johnson; that, as soon as your Orators were aware that the said book was a violation and infringement of the said several copyrights of your Orators, your Orators wrote to the said T. & J. W. Johnson the letter hereto annexed and marked A, to which your Orators crave leave to refer as part of this bill informing them thereof, - and that after your Orators had thus complained to the said T. & J. W. Johnson of this

infringement, and informed them of your Orators' intention to pursue their legal remedy in the premises, the said J. & J. W. Johnson consigned to the said Mufsey for sale, or sold to the said Mussey the copies of the said book so exposed to sale or sold by the said Mufsey at his shop as aforesaid. And your Orators pray that the said Mufsey may discover and set forth whether he received the said copies from the said J. & J. W. Johnson, and any letter or letters which he may have received from the said J. and J. W. Johnson concerning them or the sale thereof.

And your Orators further show, that in consequence of the said Mufsey having so exposed to sale and sold, and of his continuing to expose to sale and to sell the book hereinbefore complained of, the sales of your Orators' said books have been hindered and rendered less in number than they would otherwise have been; and that your Orators will suffer a still greater diminution of their sales and a still greater loss of their lawful and rightful profits on their said books, if the said book hereinbefore complained of shall continue to be sold or exposed to sale by the said Mufsey or any other person.

All which acts and doings of the said Mufsey are contrary to equity and good conscience, and tend to the manifest wrong and injury of your Orators in the premises. In Consideration whereof, and forasmuch as your Orators are without adequate remedy save in a Court of Equity, your Orators pray this Honorable Court to issue a writ of subpoena, in due form of law, and according to the course of this Honorable Court, directed to the said Benjamin B. Mufsey,

Commanding him at a certain day, and under a certain penalty to be therein specified, to appear before this Honorable Court, to answer upon oath all and singular the matters and things hereinbefore set forth and complained of, and especially to answer and set forth,

1. Whether he has sold any and how many copies of the said book hereinbefore complained of, and at what prices, and how many copies thereof he has now on hand?

2. Whether the said book does not contain matter adopted copied and taken verbatim from the said eighth and nineteenth volumes of Pickering's Reports and the said fifth volume of Metcalf's Reports, as hereinbefore specified and described?

3. Whether your Orators are not the proprietors of the several copyrights of the said eighth and nineteenth volumes of Pickerings Reports and the said fifth volume of Metcalf's Reports?

And that the said Chapsey may be restrained by injunction from selling or exposing to sale, or causing or being in any way concerned in the selling or exposing to sale or other-

wise disposing of any other copy or copies of the Book hereinbefore complained of; and that he be ordered to to render an account of the copies of the same that have been sold and to pay over the profits of such sales to your Orators; and that he be ordered to surrender and deliver up to your Orators all the copies of the said Book that he has on hand, and be decreed to pay to your Orators their costs in this suit; and that the exclusive right and privilege of your Orators to print publish and sell their said Books and the matter hereinbefore charged to have been piratically taken from them as aforesaid, may be established, and that your Orators may have such other and further relief in the premises, as to this Honorable Court may seem meet, and as the nature and circumstances of the case may require.

Wm. J. Curtis
of Counsel for
the Complainants.

Charles C. Sidd
Samuel Brown

A. (Copy)

Boston Nov. 17th 1847

Messrs. T & J. W. Johnson

Gentlemen

We are apprised by Mr. J. C. Perkins for whom we ordered a ~~Copy~~ of Hare & Wallaces Leading Cases that much valuable matter has been taken from our copyrights & used in that work. This notice of Mr. Perkins first called our attention to the work and made us aware of its nature. We now beg to advise you that the copies consigned us await your order, and that those ordered from you by us we shall not dispose of, and that we shall without delay take such measures as are necessary to protect our copyrights so infringed upon.

We are truly Yours

(sign'd) Little & Brown.

United States of America.
District of Mass. ss. On this twenty eighth day of December A.D. 1847, personally appeared the above named Charles C. Little & James Brown, and severally made oath that the matters and things stated in the foregoing Bill as of their own knowledge, are true; and that so far as such matters and things are stated on their information and belief, they believe them to be true.

Before me,

Geo. T. Curtis
Commissioner of the
Circuit Court of the
United States for
Mass. District.

In Equity

Charles Cuttle &c

vs

Benj B Mussey

Bill

Dec 29/47 Filed in
the Clerks office
& subscribed. Rebbe Fitch
Rules to visit Feb 7. 1848

J. B. Robb Clk

Circuit Court U.S.
Massachusetts Dist.s { October Term 1848.
First Octo 16. 1848.

Indemnity

Charles C. Little et al vs Benj D Mussey.

By this sixteenth day of October A.D 1848.
it is ordered adjudged and de-
-creed by the Court that said cause
do stand dismissed without prejudice

By the Court

Ch. Sprague Clk.

In Equity

Chas C Stillwell

vs

Benj D Murray

Final Decree.

Oct 16 1878.